Majlis Bandaraya Melaka Bersejarah v Tenaga Nasional Bhd and other appeals

COURT OF APPEAL (PUTRAJAYA) — CIVIL APPEAL NOS M-01(A)-118–02 OF 2024, M-01(A)-119–02 OF 2024, M-01(A)-120–02 OF 2024, M-01(A)-121–02 OF 2024, M-01(A)-128–02 OF 2024, M-01(A)-129–02 OF 2024 AND M-01(A)-143–02 OF 2024
LEE SWEE SENG, MOHD NAZLAN AND WAN AHMAD FARID JJCA
21 AUGUST 2025

Local Government — Rates — New valuation — Local authorities in Malacca issued notices of new valuation in relation to pylons owned by Tenaga Nasional Bhd ('TNB') — TNB claimed that notices of new valuation were defective — TNB filed judicial review application — Identity of owner of a holding in Melaka who was responsible for payment rates under Local Government Act 1976 ('Act 171') — Whether information provided in notices of new valuation sufficient to identify pylons as holdings for the purposes of s 137 of Act 171 — Whether notices issued by local authorities were defective for non-compliance with s 137 of Act 171 and thus could not be enforced against TNB — Local Government Act 1976 ss 2, 133, 137, 141, 142(1) & 146

Statutory Interpretation — Interpretation — Statute — Local Government Act 1976 ('Act 171') — Natural and ordinary meaning — Purposive literal construction — Interpretation of 'holding' and 'owner of the holding' in relation to State of Malacca — Who was the owner of a holding in State of Melaka who was responsible for payment rates under Act 171 — Interpretation Acts 1948/1967 s 17A

The dispute in the present case arose when four local authorities in Melaka issued notices of new valuation ('the notices') to Tenaga Nasional Bhd ('TNB') pursuant to ss 137 and 141 of the Local Government Act 1976 ('Act 171'). The notices concerned the pylons which were situated on lands owned by TNB, as well as lands owned by the state authority and private third parties. TNB raised its objection against the notices pursuant to s 142(1) of Act 171 but to no avail. Aggrieved, TNB filed judicial review applications which were allowed by the High Court but since the parties were dissatisfied with the High Court's findings, they filed the present appeals. There were two main issues to be determined by the court in the present appeals. The first issue (which was the essence of the three appeals by TNB) was whether the information provided in the notices was sufficient to identify the pylons as holdings for the purposes of s 137 of Act 171. In this regard, the court had to determine the question of whether the notices issued by the local authorities were defective for

non-compliance with s 137 of Act 171 and thus could not be enforced against TNB. The second issue (which was the essence of the four appeals by the local authorities) concerned the identity of the owner of a holding in the State of Melaka who was responsible for the payment rates under Act 171.

Held, dismissing the three appeals by TNB, and allowing the four appeals by the local authorities with costs of RM10,000 to be paid by TNB to the local authorities in respect of each of the seven appeals, subject to allocatur:

(1) Given the provisions of s 137 of Act 171, the court did not think it could be doubted that its objective was anything other than to identify with some degree of certainty the holdings, their location and the identity of the owner or occupier. All the notices set out the numbers for the pylons, and most included information on the coordinates, mukim, and postcode as well. To that relevant and important extent, the court agreed with the High Court and found that the information provided in the notices did sufficiently meet this requirement (see para 21).

(2) The court's finding above was based on two principal reasons. Firstly, the location of the pylons could be ascertained because each individual pylon was identified by their unique 'Plate Number'. Secondly, there should absolutely be no dispute as to the identity of the owner of the pylons given the fact that TNB was the sole licensee for the delivery and distribution of electricity in Peninsular Malaysia under the Electricity Supply Act 1990. Furthermore, the knowledge regarding who owned the land where the pylons were situated must surely be with TNB for TNB could not be moving into anybody's land and erecting the pylons as it wishes without getting the prior approval of the owners of the land, be it private owners or the State Authority (see paras 22–23 & 26–28).

(3) With respect to the second issue, the court summarised the application of the law as followed: (a) ss 133 and 146 of Act 171 stated that the liability to pay rates fell on the owner of the holding; (b) the key expression of 'holding' included 'buildings' insofar as Malacca and Penang were concerned — in this regard, the present appeals concerned the rates imposed by various local authorities in Malacca; and (c) the term 'buildings' in turn included cables and transmission lines and had even been judicially determined to extend to pylons. Accordingly, pylons therefore fell within the definition 'holdings' for the purposes of s 137 of Act 171 and were as such a form of 'rateable holdings' under Act 171 (see paras 45–46).

(4) The incontrovertible fact was that Act 171 had provided an extended definition for Penang and Malacca where the definition of 'holding' was drafted to include 'building'. The court firmly subscribed to the view that the words in a statute must be given their natural and ordinary meaning, supplement with the defined meaning in the interpretation of words used

in the technical sense. Moreover, no words were designed for decorative purpose in an Act of Parliament and so no words were to be ignored. The court did not think that applying the ordinary and natural interpretation of s 2 of Act 171 in respect of Malacca and Penang would result in any inexpediency, injustice, immorality or absurdity. The language too was not ambiguous in the first place (see paras 54 & 62).

(5) The court disagreed with TNB's contention that Penang and Malacca should not be allowed to have a different and extended meaning in so far as the expression 'holding' was concerned because Act 171 was enacted to achieve uniformity. Whilst uniformity was to be achieved and indeed was achieved with a single statute relating to local government in Act 171, yet the drafters had in their wisdom seen it fit to maintain in the very same statute a difference for Penang and Malacca. The courts could not ignore the clear words of a statute (see paras 55–56).

(6) Pursuant to s 17A of the Interpretation Acts 1948/1967, the resultant interpretation ought to be one that would promote the purpose or object of Act 171. The long title to Act 171 stated that the Act was to revise and consolidate the laws relating to local government; whilst its preamble mentioned the purpose only of ensuring uniformity of law and policy to make a law with respect to local government. Thus, in the present appeals, the relevant parts of s 2 of Act 171 required a purposive literal construction ie, that the literal meaning of the relevant words were in accordance with the legislative purpose, which should apply where the literal meaning was clear and reflected the purposes of the statute. Where the law provided that in Penang and Malacca, recourse may be had by the local authorities to impose charges on the owners of the pylons, the court saw nothing inherently or intrinsically repugnant or obnoxious where the purpose of the statute was concerned for the imposition of rates on these structures on land (see paras 65–67).

(7) Unlike the definition of 'owner' which was of general application throughout Act 171, the term 'holding' was exclusively referenced within Part XV: Rating and Valuation in Act 171, thus emphasising the point that the term 'holding' was defined for the specific purpose of the imposition of rates provided under that Part XV in Act 171. As such, the phrase 'owner of the holding' in the context of Part XV of Act 171 vis a vis the imposition of rates would demonstrate that the general definition of 'owner' under s 2 did not have the effect of confining the liability for the payment of rates to landowners only. It followed that in so far as Malacca was concerned, buildings were deemed rateable holdings which may be a separate and distinct category from land. It further meant that TNB as the owner of the pylons, being holdings in Malacca, was liable to pay the rates, regardless of whether or not TNB owned the land where the pylons were located on (see paras 72–73).

[Bahasa Malaysia summary

Pertikaian dalam kes semasa timbul apabila empat pihak berkuasa tempatan di Melaka mengeluarkan notis senarai nilaian baru ('notis-notis tersebut') kepada Tenaga Nasional Bhd ('TNB') menurut ss 137 dan 141 Akta Kerajaan Tempatan 1976 ('Akta 171'). Notis-notis tersebut membabitkan tiang-tiang yang terletak di atas tanah milik TNB, serta tanah milik pihak berkuasa negeri dan pihak ketiga swasta. TNB membangkitkan bantahannya terhadap notis-notis tersebut menurut s 142(1) Akta 171 tetapi tidak berjaya. Terkilan, TNB memfailkan permohonan semakan kehakiman yang kemudiannya telah dibenarkan oleh Mahkamah Tinggi tetapi memandangkan pihak-pihak tidak berpuas hati dengan dapatan-dapatan Mahkamah Tinggi, mereka memfailkan rayuan-rayuan semasa. Terdapat dua isu utama yang perlu ditentukan oleh mahkamah dalam rayuan-rayuan semasa. Isu pertama (yang menjadi inti pati tiga rayuan oleh TNB) ialah sama ada maklumat yang diberikan dalam notis-notis tersebut mencukupi untuk mengenal pasti tiang-tiang tersebut sebagai pegangan bagi tujuan s 137 Akta 171. Berhubung dengan ini, mahkamah perlu menentukan persoalan sama ada notis-notis yang dikeluarkan oleh pihak berkuasa tempatan tersebut cacat kerana tidak mematuhi s 137 Akta 171 dan dengan itu tidak boleh dikuatkuasakan terhadap TNB. Isu kedua (yang menjadi inti pati empat rayuan oleh empat pihak berkuasa tempatan tersebut) membabitkan identiti pemunya pegangan di Negeri Melaka yang bertanggungjawab terhadap kadar bayaran di bawah Akta 171.

Diputuskan, menolak tiga rayuan oleh TNB, dan membenarkan empat rayuan oleh empat pihak berkuasa tempatan tersebut dengan kos RM10,000 dibayar oleh TNB kepada pihak berkuasa tempatan bagi setiap satu daripada tujuh rayuan tersebut, tertakluk kepada alokatur:

(1) Berdasarkan peruntukan s 137 Akta 171, mahkamah tidak fikir ia boleh diragui bahawa objektifnya, tak lain dan tak bukan, adalah untuk mengenal pasti dengan tepat pegangan, Lokasi pegangan dan identiti pemunya atau penghuni. Semua notis tersebut menetapkan nombor untuk tiang, dan kebanyakannya termasuk maklumat tentang koordinat, mukim dan poskod juga. Pada takat yang relevan dan penting tersebut, mahkamah bersetuju dengan Mahkamah Tinggi dan mendapati bahawa maklumat yang diberikan dalam notis-notis tersebut memenuhi keperluan ini dengan secukupnya (lihat perenggan 21).

(2) Dapatan mahkamah di atas adalah berdasarkan dua sebab utama. Pertama, lokasi tiang boleh dipastikan kerana setiap satu tiang dikenal pasti dengan 'Nombor Plat' unik tiang tersebut. Kedua, tiada pertikaian sama sekali mengenai identiti pemilik tiang memandangkan TNB adalah pemegang lesen tunggal untuk penghantaran dan pengagihan tenaga elektrik di Semenanjung Malaysia di bawah Akta Bekalan Elektrik 1990.

Tambahan pula, pengetahuan mengenai siapa pemilik tanah di mana tiang-tiang tersebut terletak pastinya ada dengan TNB kerana TNB tidak boleh masuk ke tanah sesiapa dan mendirikan tiang-tiang tersebut sesuka hati tanpa mendapat kelulusan terlebih dahulu daripada pemilik tanah, sama ada pemilik persendirian atau Pihak Berkuasa Negeri (lihat perenggan 22–23 & 26–28).

(3) Berkenaan dengan isu kedua, mahkamah merumuskan bahawa pemakaian undang-undang adalah seperti berikut: (a) ss 133 dan 146 Akta 171 menyatakan bahawa tanggungjawab untuk membayar kadar adalah terletak pada pemunya pegangan; (b) ungkapan utama 'pegangan' merangkumi 'bangunan' setakat yang berkaitan dengan Melaka dan Pulau Pinang — dalam hal ini, rayuan-rayuan semasa adalah berkaitan dengan kadar yang dikenakan oleh pelbagai pihak berkuasa tempatan di Melaka; dan (c) istilah 'bangunan' pula merangkumi kabel dan talian penghantaran dan bahkan telah ditentukan secara kehakiman turut merangkumi tiang-tiang. Oleh yang demikian, tiang termasuk dalam takrifan 'pegangan' bagi maksud s 137 Akta 171 dan sebagai satu bentuk 'pegangan berkadar' di bawah Akta 171 (lihat perenggan 45–46).

(4) Hakikat yang tidak boleh dipertikaikan ialah Akta 171 telah memberikan takrifan lanjutan untuk Pulau Pinang dan Melaka di mana takrifan 'pegangan' digubal untuk merangkumi 'bangunan'. Mahkamah berpegang teguh pada pandangan bahawa perkataan dalam statut harus diberi makna semula jadi dan biasa, ditambah dengan makna yang ditakrifkan dalam tafsiran perkataan yang digunakan dalam pengertian teknikal. Selain itu, tiada perkataan direka untuk tujuan hiasan dalam Akta Parlimen dan oleh itu tiada perkataan yang boleh diabaikan. Mahkamah tidak fikir bahawa pemakaian tafsiran biasa dan semula jadi ke atas s 2 Akta 171 berkenaan dengan Melaka dan Pulau Pinang akan mengakibatkan apa-apa ketidaksesuaian, ketidakadilan, sesuatu yang tidak bermoral atau tidak masuk akal. Bahasanya juga tidak taksa (lihat perenggan 54 & 62).

(5) Mahkamah tidak bersetuju dengan hujah TNB bahawa Pulau Pinang dan Melaka tidak boleh dibenarkan untuk mempunyai makna yang berbeza dan meluas berkenaan dengan ungkapan 'pegangan' kerana Akta 171 digubal untuk mencapai persamaan. Walaupun persamaan harus dicapai dan sememangnya telah dicapai melalui satu statut yang berkaitan dengan kerajaan tempatan iaitu Akta 171, namun penggubal-penggubal undang-undang dalam kebijaksanaan mereka melihat ia sesuai untuk mengekalkan perbezaan dalam statut yang sama untuk Pulau Pinang dan Melaka. Mahkamah tidak boleh mengabaikan perkataan-perkataan statut yang jelas (lihat perenggan 55–56).

(6) Menurut s 17A Akta Tafsiran 1948/1967, tafsiran yang terhasil haruslah tafsiran yang akan menggalakkan tujuan atau objektif Akta 171. Tajuk

panjang kepada Akta 171 menyatakan bahawa Akta tersebut adalah untuk menyusun semula dan menyatukan undang-undang berhubungan dengan kerajaan tempatan; manakala mukadimahnya menyebut tujuan hanya untuk menentukan persamaan undang-undang dan dasar untuk membuat undang-undang berkenaan dengan kerajaan tempatan. Oleh itu, dalam rayuan-rayuan semasa, bahagian yang berkaitan dalam s 2 Akta 171 memerlukan pentafsiran literal bertujuan iaitu, bahawa makna literal perkataan-perkataan yang berkaitan adalah mengikut tujuan perundangan, yang sepatutnya terpakai apabila makna literal adalah jelas dan mencerminkan tujuan statut. Apabila undang-undang memperuntukkan bahawa di Pulau Pinang dan Melaka, pihak berkuasa tempatan dibolehkan untuk mengenakan caj ke atas pemilik tiang, mahkamah tidak melihat apa-apa pun yang secara semula jadi atau secara intrinsik menjijikkan atau menjengkelkan, berhubung dengan tujuan statut tersebut, bagi pengenaan kadar ke atas struktur ini di atas tanah (lihat perenggan 65–67).

(7) Berbeza dengan takrifan 'pemunya' yang digunakan secara umum di seluruh Akta 171, istilah 'pegangan' dirujuk secara eksklusif dalam Bahagian XV: Kadar dan Penilaian dalam Akta 171, sekali gus menekankan bahawa istilah 'pegangan' ditakrifkan untuk tujuan khusus pengenaan kadar yang diperuntukkan di bawah Bahagian XV dalam Akta 171. Oleh yang demikian, frasa 'pemunya pegangan' dalam konteks Bahagian XV Akta 171 berhubung dengan pengenaan kadar akan menunjukkan bahawa takrifan umum 'pemunya' di bawah s 2 tidak mempunyai kesan mengehadkan liabiliti untuk pembayaran kadar kepada pemilik tanah sahaja. Berikutan itu, setakat yang melibatkan negeri Melaka, bangunan disifatkan sebagai pegangan berkadar yang mungkin merupakan kategori yang berasingan dan berbeza daripada tanah. Ia seterusnya bermakna bahawa TNB sebagai pemunya tiang, yang merupakan pegangan di Melaka, bertanggungjawab untuk membayar kadar tersebut, tidak kira sama ada TNB memiliki tanah di mana tiang tersebut terletak atau tidak (lihat perenggan 72–73).]

Cases referred to

Dream Property Sdn Bhd v Atlas Housing Sdn Bhd [2015] 2 MLJ 441, FC (refd)
Duport Steels Ltd & Ors v Sirs & Ors [1980] 1 WLR 142, HL (refd)
Foo Loke Ying & Anor v Television Broadcasts Ltd & Ors [1985] 2 MLJ 35, SC (folld)
Gan Yook Chin (P) & Anor v Lee Ing Chin @ Lee Teck Seng & Ors [2005] 2 MLJ 1, FC (refd)
Martego Sdn Bhd v Arkitek Meor & Chew Sdn Bhd and another appeal [2020] 6 MLJ 224; [2019] 8 CLJ 433, FC (refd)
Ng Hoo Kui & Anor v Wendy Tan Lee Peng (administratrix for the estate of Tan Ewe Kwang, deceased) & Ors [2020] 12 MLJ 67; [2020] 10 CLJ 1, FC (refd)

SPM Membrane Switch Sdn Bhd v Kerajaan Negeri Selangor [2016] 1 MLJ 464, FC (refd)
Tenaga Nasional Bhd v Majlis Daerah Segamat [2023] 5 MLJ 456; [2023] 9 CLJ 214, CA (refd)

Legislation referred to

Electricity Supply Act 1990
Interpretation (Amendment Act) 1997
Interpretation Acts 1948 and 1967 s 17A
Local Government Act 1976 ss 2, 127, 129, 130, 133, 137, 141, 142(1), 146, Part XV

Appeal from: *Tenaga Nasional Bhd v Majlis Bandaraya Melaka Bersejarah* [2024] MLJU 197 (High Court, Melaka)

Malik Imtiaz Sarwar (with Adillah Ahmad Nordin, Lim Yvonne, Nurul Nasyira Mohd Haliemy, Akmal Hakim Ahmad Zaharim and Fithriyaani Hafzhan Mohd Shaari) (Adillah A Nordin) for Majlis Bandaraya Melaka Bersejarah, Majlis Perbandaran Alor Gajah, Majlis Perbandaran Jasin and Majlis Perbandaran Hang Tuah Jaya.
Goh Peng Hong (with Soh Ling Ling and Anith Najhan bt Razak) (Lai, Goh & Assoc) for Tenaga Nasional Bhd (for appeals by the local authorities).
Natalia Izra Nasaruddin (with Tengku Nazmi Tengku Anuar) (Azmi & Assoc) for Tenaga Nasional Bhd (for appeals by Tenaga Nasional Bhd).

Mohd Nazlan JCA (delivering judgment of the court):

INTRODUCTION

[1] We heard seven appeals, all of which arose from a single judgment of the High Court which had heard together four judicial review applications on a same issue filed by Tenaga Nasional Bhd ('TNB') against four different local authorities in Melaka.

[2] The four local authorities are Majlis Bandaraya Melaka Bersejarah ('MBMB'), Majlis Perbandaran Alor Gajah ('MPAG'), Majlis Perbandaran Jasin ('MPJ') and Majlis Perbandaran Hang Tuah Jaya ('MPHTJ').

[3] The judgment of the High Court which allowed judicial review against the local authorities was appealed against by each of the four local authorities. TNB too appealed against the decision, other than in respect of the decision concerning MPJ. Hence the seven appeals before us.

[4] This single judgment of this court will deal with all seven appeals given the similarity of the issues therein to those determined by the High Court.

A KEY BACKGROUND FACTS

[5] The dispute in this case arose when the four local authorities issued notices of new valuation or *notis senarai nilaian baru* ('the notices') to TNB pursuant to ss 137 and 141 of the Local Government Act 1976 ('the LGA 1976'). The notices concerned the pylons which are situated on lands owned by TNB, as well as lands owned by the State Authority and private third parties.

[6] TNB decided to invoke s 142(1) of the LGA 1976 to raise its objections against the notices, which resulted in hearings conducted by the four local authorities which respectively eventually decided to dismiss the objections, as documented in the *notis keputusan bantahan.*

[7] TNB then proceeded to file the judicial review applications which essentially involved two principal complaints. The first was that the notices were defective because TNB claimed it was unable to identify the owners of the holdings referred to in the notices, nor could TNB determine whether the lands referred to were privately owned or State owned. The second was that since TNB was not the owner of certain of the lands on which the pylons were situated, TNB could not in relation to those lands be the owner of the holdings pursuant to the LGA 1976.

THE VERDICT OF THE HIGH COURT

[8] The High Court, in allowing the judicial review applications decided that although the notices issued by the local authorities were not defective, TNB was not an owner of holdings under s 133 of the LGA 1976 in respect of the pylons which were situated on lands not owned by TNB. The High Court held that TNB was however liable to pay the rates imposed on pylons and transmission towers that are located on lands owned by TNB.

[9] Of significant importance is the finding of the High Court that the definition of 'owner' under s 2 of the LGA 1976 qualified the phrase 'owner of the holding' in s 133 of the LGA 1976 to the effect that the latter could only apply to the owner of the land on which a building was situated.

PRINCIPLES ON APPELLATE INTERVENTION

[10] We say that it needs little reminding that the law is well-established in that an appellate court will not interfere unless the trial court is shown to be plainly wrong. The Federal Court in *Dream Property Sdn Bhd v Atlas Housing Sdn Bhd* [2015] 2 MLJ 441, in the judgment written by Azahar Mohamed FCJ (later CJM) reaffirmed the principle to be followed by an appellate court when reversing findings of fact by a trial court:

[60] It is now established that the principle on which an appellate court could interfere with findings of fact by the trial court is 'the plainly wrong test' principle; see the Federal Court in *Gan Yook Chin (P) & Anor v Lee Ing Chin @ Lee Teck Seng & Ors* [2005] 2 MLJ 1 (at p 10) per Steve Shim CJ (Sabah & Sarawak). More recently, this principle of appellate intervention was affirmed by the Federal Court in *UEM Group Bhd (previously known as United Engineers (M) Bhd v Genisys Integrated Engineers Pte Ltd & Anor* [2018] supp MLJ 363; [2010] 9 CLJ 785 where it was held at p 375 (MLJ); p 800 (CLJ):

> It is well settled law that an appellate court will not generally speaking, intervene with the decision of a trial court unless the trial court is shown to be plainly wrong in arriving at its decision. A plainly wrong decision happens when the trial court is guilty of no or insufficient judicial appreciation of evidence (see *Chow Yee Wah & Anor v Choo Ah Pat* [1978] 2 MLJ 41b; [1978] 1 LNS 32; *Watt v Thomas* [1947] AC 484; and *Gan Yook Chin (P) & Anor v Lee Ing Chin @ Lee Teck Seng & Ors* [2005] 2 MLJ 1; [2004] 4 CLJ 309).

[11] In a relatively more recent Federal Court pronouncement on the principles relating to appellate intervention in *Ng Hoo Kui & Anor v Wendy Tan Lee Peng (administratrix for the estate of Tan Ewe Kwang, deceased) & Ors* [2020] 12 MLJ 67; [2020] 10 CLJ 1, which cited the earlier decision of the Federal Court in *Gan Yook Chin (P) & Anor v Lee Ing Chin @ Lee Teck Seng & Ors* [2005] 2 MLJ 1, it was reaffirmed that the position has always been that a decision which is arrived at due to a lack of judicial appreciation of evidence is plainly wrong.

[12] In this light, we will examine the issues raised by the appellants next.

ANALYSIS AND FINDINGS OF THIS COURT

[13] Put another way, the key question for determination then at the High Court, as are repeated now before us relate to two narrow issues. The first — which is the essence of the appeal by TNB — is whether the information provided in the notices was sufficient to identify the pylons as holdings for the purposes of s 137 of the LGA 1976. Indeed, in its memorandum of appeal for all its appeals, TNB only raises grounds of appeal that relate to the question of whether the notices were in compliance with s 137 of the LGA 1976. The second issue, which is the overarching point raised by the local authorities in their appeals concerns the identity of the owner of a holding in the State of Melaka who is responsible for the payment of rates under the LGA 1976.

The TNB appeals

[14] We shall first deal with the three appeals by TNB. They relate to the single question as to whether, as contended by TNB that the notices issued by

the local authorities were defective for non-compliance with s 137 and thus could not be enforced against TNB.

[15] Specifically, it was argued that the notices did not contain the particulars of the name of the street or locality in which such holding is situated and that there was insufficient designation of the holding either by name or number sufficient to identify it. TNB argued that the notices merely referred to the transmission towers by way of numbers, coordinates and the district where they are supposedly located.

[16] The local authorities on the other hand maintained that each of the notices contained sufficient information in the context of identifying the location of the transmission towers, it being common knowledge that transmission towers are not buildings that are usually identified by postal addresses.

[17] The High Court held that the notices were valid and had sufficiently identified the pylons by reference to their numbers, geographical coordinates and location as set out therein.

[18] Regard ought therefore to be had to the provisions of s 137 which require the notices to include, relevant for present purposes, the name of the street or locality in which such holding is situated, the designation of the holding either by name or number sufficient to identify it, and the names of the owner and occupier, if known. The entirety of this statutory provision reads as follow:

> 137 Preparation of Valuation List
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> (1) The local authority shall cause a Valuation List of all holdings not exempted from the payment of rates to be prepared containing —
>
> (a) the name of the street or locality in which such holding is situated;
>
> (b) the designation of the holding either by name or number sufficient to identify it;
>
> (c) the names of the owner and occupier, if known; (d) the annual value or improved value of the holding.
>
> (2) The Valuation List together with the amendments made under section 144 shall remain in force until it is superseded by a new Valuation List.
>
> (3) A new Valuation List which shall contain the same particulars as in subsection (1) shall be prepared and completed once every five years or within such extended period as the State Authority may determine.

[19] We have examined the notices in these appeals.

[20] We are unable to find any good reason to depart from the following finding of the High Court:

> [15] Now, it cannot be ignored that transmission towers are unique steel structures that stand apart and are easily distinguishable from other buildings. More importantly, no one other than a licensee under the Electricity Supply Act 1990, which in this case is Tenaga Nasional Bhd, has the right to construct, operate and maintain those towers. Additionally, it is common knowledge that many transmission towers are constructed along transmission or power grids that are run across rural and remote areas where the lands on which they are constructed are not usually identified by reference to postal addresses.
>
> [16] Therefore, this court agrees with the contention of the respondents that these towers or holdings, as they are referred to for purposes of the Act, are sufficiently identifiable by reference to their numbers, geographical coordinates and location as set out in the notices. There can be no confusion about where these towers are or who owns them. No other party other than Tenaga Nasional Bhd owns and operates power grids, which include the transmission lines and the associated towers in the State of Melaka.
>
> [17] In particular, with respect to lands owned by the applicant, which are five within the Local Government Authority of Melaka Bandar Raya Bersejarah and one each under Alor Gajah and Hang Tuah Jaya, this court does not find any real basis for the applicant to deny knowledge of them and where they are located. All this information is not just within the records of the respective respondent but also in the records of the applicant as the owner of those towers. Therefore, the applicant cannot be misled or prejudiced by the collective information of the number and coordinates of those towers.
>
> [18] It is inconceivable for the applicant to deny knowledge and location of any particular tower and where they reside, whether on State or private land or lands owned by the applicant. Any one tower is part of the same power grid or transmission lines. To deny knowledge and ownership of one tower is to deny all other towers connected to the same transmission line grid. Therefore, this court finds that the information contained in the respective notices fulfils the requirements of s 137 of the Act, subject to the determination of the meaning of owner of a holding in the present applications.

[21] Given the provisions of s 137, we do not think it could be doubted that its objective is anything other than to identify with some degree of certainty the holdings, their location and the identity of the owner or occupier. All the notices set out the numbers for the pylons, and most include information on the coordinates, mukim, and postcode as well. To that relevant and important extent, we agree with the High Court and find that the information provided in the notices did sufficiently meet this requirement.

[22] For emphasis, we say so for two principal reasons.

A **[23]** First, the location of the pylons can be ascertained because each individual pylon is identified by their unique 'Plate Number' — being the number imprinted on the pylon itself, on top of other information such as the coordinates and on the mukim. Pylons are not erected on streets given their very nature and the danger they pose but instead situated throughout rural and
B remote areas not easily identifiable through postal codes.

[24] In any event, pylons are unique steel structures which are readily distinguishable from other buildings. The location of the pylons can as such be ascertained.
C

[25] In light of the above, we find it rather pedantic of TNB to insist that the particulars in the notices are so deficient in permitting them to know which pylons are being assessed for the imposition of the charges under the LGA 1976, with the result that the notices should be quashed.
D

[26] Secondly, there should absolutely be no dispute as to the identity of the owner of the pylons given the fact that TNB is the sole licensee for the delivery and distribution of electricity in Peninsular Malaysia under the Electricity
E Supply Act 1990. As TNB is the sole provider of electricity in Peninsular Malaysia, only TNB is permitted to own and operate the pylons, wherever situated, as so determined by TNB.

[27] We do appreciate that TNB is not saying that it had been imposed
F charges for pylons not owned by TNB. Instead TNB wanted to know who owned the land where the pylons were situated.

[28] However, in our view, that knowledge must, to begin with, surely be with TNB for TNB cannot be moving into anybody's land and erecting the
G pylons as it wishes without getting the prior approval of the owners of the land, be it private owners or the State Authority.

[29] In the upshot, we are constrained to dismiss the three appeals by TNB.

H **[30]** This last point concerning land ownership is especially relevant to the other key question in these appeals, specifically the one which was raised by the local authorities, which is on the proper interpretation of the 'owner' of a 'holding' in Melaka within the context of the LGA 1976. We will address this next.
I

The four appeals by the local authorities

[31] These appeals are not so much about the powers of the local authorities to impose rates. That is not the issue, as the power to impose rates is plainly

conferred under Part XV — Rating and Valuation — as embodied in the LGA 1976. In particular, under s 127, each local authority is empowered to impose rates, subject to the approval of the State Authority. It states thus:

> PART XV RATING AND VALUATION
>
> 127 Power to impose rates
>
> The local authority may, with the approval of the State Authority, from time to time as is deemed necessary, impose either separately or as a consolidated rate, the annual rate or rates within a local authority area for the purposes of this Act or for other purposes which it is the duty of the local authority to perform under any other written law.

[32] It is crucial to note that the rates being imposed by the local authorities are in respect of *a holding*. The pertinent parts of s 130 of the LGA 1976 state as follows:

> 130 Basis of assessment of rate
>
> (1) Any rate or rates imposed under this Part may be assessed upon the annual value of holdings or upon the improved value of holdings as the State Authority may determine ...

[33] Of relevance is s 129 of the LGA 1976 which authorises a local authority to impose differential rating in accordance with the actual usage of the holding or part thereof. It reads thus:

> 129 Division of area and holding for rating purposes
>
> For the purposes of this Part, the local authority may divide its area into two or more parts and may in respect of such separate part or parts impose such rate or rates as may be considered just and proper and the local authority may further impose within such part or parts a differential rating in accordance with the actual usage of the holding or part thereof.

[34] Of even greater significance for present purposes is that under s 133 of the LGA 1976, rates are to be paid by the 'owner of the holding'. Section 133 reads as follows:

> 133 Duration of rate
>
> The rates referred to in sections 127 and 128 shall endure for any period not exceeding twelve months and shall be payable half-yearly in advance by the owner of the holding at the office of the local authority or other prescribed place in the months of January and July and shall be assessed and levied in the manner hereinafter provided.

[35] That the owners of the holdings are the ones responsible for the payment of the rates is repeated in s 146, which reads as follows:

> 146 Rates to be first charge

A All rates shall be paid by the persons who are the owners of the holdings for the time being, and until so paid shall, subject to the National Land Code [Act 56 of 1965], be a first charge on the holdings in respect of which they are assessed, and if not paid within the prescribed time, shall be recoverable in the manner hereinafter prescribed.

B

[36] Next, it is apposite that we set out the definition of 'owner' in the LGA 1976 which is found in s 2, as follows:

'Owner' —

C (a) in relation to any land or building, means the registered proprietor of the land and, if in the opinion of the local authority the registered proprietor of the land cannot be traced, the person for the time being receiving the rent of the premises in connection with which the word is used whether on his own account or as agent or trustee for any other person or as receiver or

D who would receive the same if such premises were let to a tenant; and

(b) in the case of subdivided buildings, includes the management corporation and any subsidiary proprietor.

E **[37]** Crucially, the word 'building' is also defined in s 2, as follows:

'building' includes any house, hut, shed or roofed enclosure, whether used for the purpose of human habitation or otherwise, and also any wall, fence, platform, underground tank, staging, gate, post, pillar, paling, frame, hoarding, slip, dock, wharf, pier, jetty, landing-stage, swimming pool, bridge, railway lines, *transmission*

F *lines, cables*, re-diffusion lines, overhead or underground pipelines, or any other structure, support or foundation; ... (Emphasis added.)

[38] Importantly, the word 'holding' is defined in s 2 as follows:

G 'holding' means any land, with or without buildings thereon, which is held under a separate document of title and in the case of subdivided buildings, the common property and any parcel thereof and, *in the case of Penang and Malacca 'holding' includes messuages, buildings easements and hereditaments* of any tenure, whether open or enclosed, whether built on or not, whether public or private, and whether maintained or not under statutory authority. (Emphasis added.)

H

[39] This means that the word 'building' in the context of the LGA 1976 includes items such as transmission lines or cables, which therefore ought surely to extend to pylons. Indeed, this court has previously in the case of

I *Tenaga Nasional Bhd v Majlis Daerah Segamat* [2023] 5 MLJ 456; [2023] 9 CLJ 214 specifically determined that since pylons are metal towers which support the transmission lines, the pylons are thus subject to assessment of rates as they fall within the definition of holdings, which includes 'buildings' under the LGA 1976.

[40] The construction of the abovementioned definitions ought in our view to be free from ambiguity and not to be in dispute in that for states other than Penang and Melaka, the rates are payable by the owner of the land on which the building is situated, apart from the situation where the owner cannot be traced.

[41] This very point was decided by this court in *Tenaga Nasional Bhd v Majlis Daerah Segamat* in the judgment written by Azizah Nawawi JCA (now CJSS) who explained as follows:

> Who is liable to pay the assessment rates for the pylons
>
> [43] Section 133 of the LGA 1976 provides that the rates shall be payable by the owner of the holdings:
>
> ...
>
> [44] The word 'owner' is defined in s 2 of the LGA 1976 to be as follows:
>
> ...
>
> [45] The emphasis that the rates must be paid by the owner is reiterated in s 146 of the LGA 1976, which provides that:
>
> > All rates shall be paid by the persons who are owners of the holding for the time being ...
>
> [46] Section 146 was considered by the High Court in *Suppiah v Dewan Bandaraya Kuala Lumpur* [1990] 3 MLJ 44; [1990] 1 LNS 51, where the court held that:
>
> > It is obvious that the person who has to pay the rates is the owner of the property. Under s 133 of the Act, the annual rates are to be paid half yearly in advance by the current owner in January and July of each year. Therefore, the words 'owners of the holdings for the time being' in s 146 should be read to mean the owner for the period of which the rates are imposed ...
>
> [47] The above decision was affirmed by the Supreme Court in *Dewan Bandaraya Kuala Lumpur lwn Suppiah Govindasamy* [1991] 1 MLJ 149; [1991] 1 CLJ 429; [1991] 1 CLJ Rep 104, where the Supreme Court held that:
>
> > atas tuan empunya tanah (*owners of holdings*) dan tidak atas penghuni atau penduduk (*occupiers*) seperti di England. Perbezaan di antara statut kita dengan statut di England telah diiktirafkan dalam beberapa kes mengenai cukai pintu — lihat *Lee Wah Bank Ltd v The Commissioner of Federal Capital of Kuala Lumpur* [1962] 1 MLJ 23 dan *Home Luck Investments Sdn Bhd v Commissioner of Federal Capital of Kuala Lumpur* [1969] 1 MLJ 248; [1969] 1 LNS 56.
>
> [48] *From the above provisions, it is crystal clear that under the LGA 1976, the assessment rates for the holdings, including the pylons, are to be paid by the registered owners of the said lands.* (Emphasis added.)

[42] Indeed, in order to support its position, TNB relied on this decision as authority for the interpretation that owner of a holding is strictly restricted to owner of the relevant land.

[43] However, such reliance is, in relation to these appeals, misconceived. This is because it is crystal clear that such an interpretation in *Tenaga Nasional Bhd v Majlis Daerah Segamat* is concerned with rates imposed in the State of Johore, and based on the very words of the statute, specifically in the definition of 'holding' found in s 2 of the LGA 1976, cannot therefore be applied to the situations in Penang and Melaka.

[44] The reason, in light of the above provisions, is obvious. In Penang and Melaka, since the scope of the expression 'holding' specifically includes buildings, the owner of a building — including that of pylons — is as such separately responsible for the payment of rates, which is plainly distinct from the rates payable by the owner of the land on which the building is (or pylons are) located. This interpretation is supported by s 129 of the LGA 1976, which as mentioned above, allows for the imposition of differential rating.

[45] We summarise the application of the law on this issue in this way. First, ss 133 and 146 of the LGA 1976 state that the liability to pay rates falls on the owner of the holding. Secondly, the key expression of 'holding' includes 'buildings' insofar as the States of Melaka and Penang are concerned. The instant appeals concern the rates imposed by various local authorities in Melaka. Thirdly the term 'buildings' in turn includes cables and transmission lines and has even been judicially determined to extend to pylons.

[46] Accordingly, pylons therefore fall within the definition 'holdings' for the purposes of s 137 and are as such a form of 'rateable holdings' under the LGA 1976.

[47] Now, reverting to the facts of the instant appeals, we could not agree more with the High Court on its following construction of 'holding' as contained in s 2, including in relation to the states of Penang and Melaka:

> [30] Now, having made a general provision, the definition then moves to the second part, which relates only to the States of Penang and Malacca. After having read that definition in its entirety, it is this court's interpretation that the second part of that definition serves to expand the subject matter of holding in the States of Penang and Malacca. It seems to this court that as far as it relates to building, it would have been unnecessary and redundant for the drafters to mention 'building' again in the second part if it was not to be regarded as a distinct subject matter since the building was mentioned as a part of the land in the first part. Thus, the use of the word 'building' in the second part of that definition must have been intended to be a separate and distinct subject matter from land, as mentioned in the first part. Thus, the words '... in the case of Penang and Malacca, 'holding' includes ... building ...' must mean that apart from land, a holding in the State of Malacca (Melaka) includes building as a separate and distinct subject matter. Therefore, in the State of Melaka, a holding refers not only to land but also, amongst others, building.

[48] However, we find a degree of difficulty to agree with the conclusion subsequently made by the High Court to the effect that even though the definition in s 2 does not make a distinction in the status of ownership between the owner of a land and the owner of a building, and that despite a party may be the owner of a building but not the owner of a land, the said Act presumes that the building is owned by the registered owner of the land where the building may reside (the pylons are situated).

[49] The High Court decided that whilst the word 'building' in the definition of 'holding' includes transmission towers, it follows that s 2 deems the registered owner of the land to be also the owner of the transmission tower and pylons.

[50] This was how the High Court arrived at the said finding:

> [34] Coming back to the Court of Appeal's decision in *Majlis Daerah Segamat,* although the facts there brought about the consideration of only the first part of s 2, in the final analysis, the second part does not alter the legal position that the owner of the land is responsible for the payment of the rates pursuant to any notice issued pursuant to s 137 of the Act. In this court's view, the definition of 'owner' under s 2 circumscribes the context of, who the Act regards as the owner of a holding. Whilst this court agrees that the second part of s 2 expands the scope of holding for the State of Melaka to include buildings, the definition of 'owner' also sees to it that the principle of law that only the owner of the land is responsible for payment of rates remains unchanged. The reading of the word 'holding' cannot be read in isolation and must be read subject to the express definition of 'owner'. Thus, the meaning of 'owner of a holding' in the context of transmission towers or pylons is and remains, in the State of Melaka, the registered owner of the land.

[51] We reiterate that *Tenaga Nasional Bhd v Majlis Daerah Segamat* concerned local authorities within the jurisdiction of the State of Johore. This means that only the first part of the definition of 'holding' under s 2 of the LGA 1976 that essentially provides that 'holding' means 'any land' applied. It follows that owners of holdings are owners of the land.

[52] However, the specific definition of 'holding' as stated in the second part of s 2 relevant to Melaka and Penang which extends to buildings, was patently irrelevant and inapplicable, and thus not considered in *Tenaga Nasional Bhd v Majlis Daerah Segamat*.

[53] The incontrovertible fact is that the LGA 1976 has provided an extended definition for Penang and Malacca where the definition of 'holding' is drafted to include 'building'.

[54] We firmly subscribe to the view that the words in a statute must be given their natural and ordinary meaning, supplement with the defined meaning in the interpretation of words used in the technical sense. Moreover, no words are designed for decorative purpose in an Act of Parliament and so no words are to be ignored. About the only exception is when the context and the ordinary interpretation would be repugnant to the statute as a whole where its purpose is concerned.

[55] We are cognisant of the contention of TNB that the LGA 1976 was enacted to achieve uniformity. As such it was submitted that Penang and Melaka should not be allowed to have a different and extended meaning in so far as the expression 'holding' is concerned.

[56] We disagree. Whilst uniformity is to be achieved and indeed was achieved with a single statute relating to local government in the LGA 1976, yet the drafters have in their wisdom seen it fit to maintain in the very same statute a difference for Penang and Melaka. The courts, we stress, cannot ignore the clear words of a statute.

[57] Learned counsel for TNB maintained that they could not find the historical significance for this difference. We nonetheless take the view that a lack of historical appreciation does not justify a departure from the established principles of interpretation of statutes as referred to above. It cannot be repugnant to the purpose of the Act for Penang and Melaka to have an extended meaning of 'holding' to include 'building' which in turn extends to 'transmission lines, cables and structures' including pylons.

[58] It is worth appreciating that in the context of the construction of contractual documents it is quite well-understood such as highlighted by the Federal Court in *SPM Membrane Switch Sdn Bhd v Kerajaan Negeri Selangor* [2016] 1 MLJ 464 that the rule that words should be given their 'natural and ordinary meaning' reflects the common sense proposition that we do not easily accept that people have made linguistic mistakes, particularly in formal documents.

[59] But here, before us, we are dealing with a statutory provision. It is worthy of emphasis that Parliament does not legislate in vain, quite apart from the principle mentioned earlier that courts cannot ignore the express words of a statute.

[60] Relevantly, Lord Diplock in *Duport Steels Ltd & Ors v Sirs & Ors* [1980] 1 WLR 142 observed thus:

> Where the meaning of the statutory words is plain and unambiguous it is not for the judges to invent fancied ambiguities as an excuse for failing to give effect to the plain meaning because they themselves consider that the consequences of doing so would be inexpedient, or even unjust or immoral.

[61] Most pertinently, regard ought to be had to the following passage in the decision of the Federal Court in *Foo Loke Ying & Anor v Television Broadcasts Ltd & Ors* [1985] 2 MLJ 35 (at pp 43–44):

> The court however is not at liberty to treat words in a statute as mere tautology or surplusage unless they are wholly meaningless. On the presumption that Parliament does nothing in vain, the court must endeavour to give significance to every word of an enactment, and it is presumed that if a word or phrase appears in a statute, it was put there for a purpose and must not be disregarded ...
>
> We should perhaps reiterate that the starting point in statutory interpretation is to consider the ordinary meaning of the word or phrase in question, that is its proper and most known signification ... we are of the view that the provisions of the Act under consideration before us call for a purposive literal construction which is one which allows the literal meaning of the enactment where that meaning is in accordance with the legislative purpose and applies where the literal meaning is clear and reflects the purposes of the enactment ... The provisions of the Act are abundantly clear to refute any resort to a purposive and strained construction which requires a strained meaning where the literal meaning is not in accordance with the legislative purpose.

[62] We do not think that applying the ordinary and natural interpretation of s 2 in respect of Melaka and Penang would result in any inexpediency, injustice, immorality or absurdity. The language too is not ambiguous in the first place.

[63] It is also of interest to observe that the Federal Court in *Martego Sdn Bhd v Arkitek Meor & Chew Sdn Bhd and another appeal* [2020] 6 MLJ 224; [2019] 8 CLJ 433, in its judgment delivered by Mohd Zawawi Salleh FCJ stated as follows:

> [57] It is well-established principle of interpretation that the court cannot rewrite, recast or reframe the legislation because it has no power to do so. The court cannot add words to a statute or read words which are not there. It is also well settled canon of construction that words in a statute cannot be read in isolation, their colour and content derived from their context and every words in a statute is to be examined in its context.

[64] The fundamental objective of statutory interpretation is to arrive at the legal meaning of a statute, which is the meaning that conveys the legislative intention. In our jurisdiction, there is also s 17A of the Interpretation Acts 1948 and 1967 which was introduced via the Interpretation (Amendment Act) 1997 (Act A996). This important provision, it is useful to remind ourselves,

A states as follows:

> 17A. In the interpretation of a provision of an Act, a construction that would promote the purpose or object underlying the Act (whether that purpose or object is expressly stated in the Act or not) shall be preferred to a construction that would not promote that purpose or object.

B

[65] As such, we say that pursuant to s 17A of the Interpretation Acts 1948 and 1967, the resultant interpretation ought to be one that would promote the purpose or object of the LGA 1976.

C

[66] The long title to the LGA 1976 states that the Act is to revise and consolidate the laws relating to local government; whilst its preamble mentions the purpose only of ensuring uniformity of law and policy to make a law with respect to local government. Thus, just like in *Foo Loke Ying & Anor v Television Broadcasts Ltd & Ors* we are of the view that in these appeals before us too, the
D relevant parts of s 2 of the LGA 1976 require a purposive literal construction which is that the literal meaning of the relevant words are in accordance with the legislative purpose, which should apply where the literal meaning is clear and reflects the purposes of the statute.

E

[67] We must stress that ultimately, even if procedurally the registered owner of the lands is the one to pay first, these owners would still look to TNB for reimbursement and suffering a lapse of time in the process. Where the law provides that in Penang and Melaka, recourse may be had by the local
F authorities to impose charges on the owners of the pylons, we see nothing inherently or intrinsically repugnant or obnoxious where the purpose of the statute is concerned for the imposition of rates on these structures on land. This is a situation where ultimately TNB would have to pay in taking responsibility for the construction and maintenance of the pylons and the land owners should
G not be put to bearing unnecessary burden and uncertainty where such payments of assessments are concerned.

[68] It should be familiar to many that unlike other States in the Peninsular, Melaka and Penang were once parts of the Straits Settlements then under
H British control as Crown colonies, and then joined the Malayan Union (on the dissolution of the Straits Settlement) prior to independence.

[69] Regardless of the historical background, s 2 makes it clear that in Melaka a holding can be a land or a building. A holding there could be land
I (with or without buildings) and non-land (such as buildings, easements and hereditaments of any tenure). An owner in this context should correspondingly refer to the relevant or particular holding.

[70] Now, even though we do recognise that the definition of an owner in s 2

does seem to refer only to that of a land, we are of the view that ownership in relation to non-land holdings ought not to be qualified by the meaning of 'owner' under s 2 of the LGA 1976, as decided by the High Court in the instant case. After all, like most 'Interpretation' provisions, there is at the outset a qualification such as appearing in s 2 as follows: 'in this Act, unless the context otherwise requires —'.

[71] The owner of non-land holdings should in our view be understood to mean the de facto owner in possession of those holdings and not the owner of the land. An owner of a holding in Melaka may refer to a holding which is a land or a building. After all, the provisions concerning imposition of rates as mentioned above plainly subject the owner of the holding and not the owner of the land as the party responsible for payment.

[72] It must also be said that unlike the definition of 'owner' which is of general application throughout the LGA 1976, the term 'holding' is exclusively referenced within Part XV: Rating and Valuation in the LGA 1976, thus emphasising the point that term 'holding' is defined for the specific purpose of the imposition of rates provided under that Part XV in the LGA 1976. As such, the phrase 'owner of the holding' in the context of Part XV of the LGA 1976 vis a vis the imposition of rates would demonstrate that the general definition of 'owner' under s 2 does not have the effect of confining the liability for the payment of rates to landowners only.

[73] It follows that in so far as Melaka is concerned, buildings are deemed rateable holdings which may be a separate and distinct category from land. It further means that TNB as the owner of the pylons, being holdings in Melaka, is liable to pay the rates, regardless of whether or not TNB owns the land where the pylons are located on.

CONCLUSION

[74] In light of the foregoing, we conclude that in respect of the three appeals by TNB, the notices of the new valuation on the pylons owned by TNB issued by the relevant local authorities did not infringe s 137 of the LGA 1976. We therefore affirm the decisions of the High Court and dismiss these three appeals.

[75] As for the four appeals by the four local authorities, we find that the High Court fell into an error in its interpretation of the word 'owner' in respect of a 'holding' in Melaka within the context of Part XV of the LGA 1976 which held that the owner of the lands on which the pylons were placed to be liable for the payment of the rates. The decision of the High Court on this point is therefore set aside and the four appeals are accordingly allowed.

[76] We order costs of RM10,000 to be paid by TNB to the local authorities in respect of each of the seven appeals, subject to allocatur.

Three appeals by TNB dismissed; four appeals by local authorities allowed with costs of RM10,000 to be paid by TNB to local authorities in respect of each of seven appeals, subject to allocatur.

Reported by Dzulqarnain Ab Fatar